ITEM 73/2015
MFMA DELEGATIONS:

SPECIAL COUNCIL MEETING: 31 AUGUST 2015

1. PURPOSE:

To obtain Council approval of the revised MFMA Delegations.

2. BACKGROUND:

Provincial Treasury's advisor has developed the MFMA Delegations in consultation with management to ensure that processes are in place for improved compliance to legislation. **Attached is the MFMA Delegations document.**

RECOMMENDED:

That Council approves the MFMA Delegations for approval.

MERAFONG CITY LOCAL MUNICIPALITY
DELEGATION OF POWERS POLICY

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CHAPTER 1: POLICY AND PRINCIPLES ON DELEGATION

1. Definitions

1.1 In this document, unless the context otherwise indicates, an expression to which a meaning has been assigned in the Local Government: Municipal structures Act, 1998 (Act No 117 of 1998), the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003), the Local Government: Municipal Property Rates Act, 2004 (Act No 4 of 2004) or any other applicable legislation, shall have the meaning so assigned to it, and -

(a) **"administration"** means the Accounting Officer and the other employees of the municipality;
(b) **"after consultation"** means with due regard for the views of any person with whom a delegating authority is required to consult before he exercises a delegated or sub-delegated power;
(c) **"Accounting Officer"** means the person who is appointed by the Council as the head of the administration and accounting officer for the municipality in accordance with section 82 of the Structures Act;
(d) **"CFO"** means the person designated by the Accounting Officer as the Chief Financial Officer in terms of section 80(2)(a) of the MFMA, and appointed by the Council as Strategic Executive Finance in terms of section 56 of the Systems Act;
(e) **"Constitution"** means the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
(f) **"SE Support Services"** also means the means the Strategic Executive: Corporate Support.
(g) **"Chief Operating Officer"** means the person designated by the Accounting Officer as the Chief Operating Officer in the Office of the

Accounting Officer, and appointed by the Council as Strategic Executive in terms of section 56 of the Systems Act;

(h) **"COO"** means the Chief Operating Officer;
(i) **"Council"** means the Municipal Council of the **MERAFONG** City Local Municipality, its legal successors in title and its delegates;
(j) **"delegating authority"**, means the Council, Executive Mayor, Speaker, Accounting Officer, Chief Financial Officer or other employee to whom an original power was assigned in terms of legislation, and in relation to the delegation or sub-delegation of such power, means the delegated body concerned;
(k) **"delegation"** means the issuing of a written authorisation by a delegating authority to a delegated body to act in his stead, and in relation to a duty includes an instruction or request to perform or to assist in performing the duty, and **'delegate'** and **'sub-delegate'** has a corresponding meaning;
(l) **"delegated body"** in relation to the delegation of a power means the political office bearer or employee to whom a power has been delegated by the delegating authority in writing;
(m) **"SE"** means a strategic executive directly accountable to the Accounting Officer as contemplated in, and appointed in terms of section 56 of the Systems Act;
(n) **"Goods"** means those raw materials or commodities which are available for general sale;
(o) **"in consultation"** means with the concurrence of the person with whom a delegating authority must consult before exercising a delegated or sub-delegated power;
(p) **"MFMA"** means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003);
(q) **"municipality"**, means the **MERAFONG** City Local Municipality, and when referred to as -

(i) an entity, means a municipality as described in section 2 of the Systems Act; and
(ii) a geographic area, means a municipal area determined in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

(o) **"power"** includes a duty and a function;
(p) **"political office bearer"**, in relation to the municipality, means the Executive Mayor and the Speaker elected by the Council to such a post or position in accordance with the provisions of the Structures Act and full time Councillors appointed by the Executive Mayor as Portfolio Heads;
(q) **"Property Act"** means the Local Government: Municipal Property Rates Act, 2004 (Act No 4 of 2004);
(r) **"Services"** means the provision of labour and work carried out by hand, or with the assistance of plant and equipment, including the input, as necessary, of knowledge based expertise;
(s) **"Structures Act"** means the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);
(t) **"Supply Chain Management System"** means the system for:

(i) the procurement of goods and services;

(ii) the appointment of professional service providers;
(iii) the disposal and letting of assets, including the disposal of assets no longer needed;

(t) **"Systems Act"** means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

1.2 In this document, unless the context otherwise indicates, words and expressions denoting –

(a) the singular shall include the plural and vice versa;
(b) the male sex shall include the female sex and vice versa; and
(c) a reference to a natural person shall include a legal person and vice versa.

1.3 The following abbreviations are used for legislation in column 1 of the tables:

Constitution	: CON
Structures Act	: MSTA
Systems Act	: MSA
Finance Management Act	: MFMA
Property Rates Act	: MPRA
Remuneration of Public Office Bearers Act	: RPOA
Demarcation Act	: MDA
Local Government Ordinance (Old legislation)	: ORD

2. Powers and responsibilities of the municipality

2.1 The municipality has all the powers assigned to it in terms of the Constitution as well as national and provincial legislation. The municipality has the right to do anything reasonably necessary for or incidental to the effective exercising of its powers.

2.2 The Executive and legislative authority of the municipality vest in the Council, and the Council takes all the decisions of the municipality except

(a) decisions on those matters that have been delegated;
(b) decisions on those matters that have by law been assigned to a political structure, political office bearer or employee of the Council;

2.3 The Council may exercise Executive and legislative authority within the municipal area of the municipality only, but may, by written agreement with another municipality, exercise Executive authority in the area of that other municipality.

2.4 A municipality, as provided for in section 11 of the Systems Act, exercises its legislative or Executive authority by:

(a) developing and adopting policies, plans, strategies and programmes, including setting targets for delivery;
(b) promoting and undertaking development;
(c) establishing and maintaining an administration;
(d) administering and regulating its internal affairs and the local government affairs of the local community;
(e) implementing applicable national and provincial legislation and its by-laws;
(f) providing municipal services to the local community, or appointing appropriate service providers in accordance with the criteria and process set out in section 78 of the Systems Act;
(g) monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the municipality;
(h) preparing, approving and implementing its budgets;
(i) imposing and recovering rates, taxes, levies, duties, service fees and surcharges on fees, including setting and implementing tariff, rates and tax and debt collection policies;
(j) monitoring the impact and effectiveness of any services, policies, programmes or plans;
(k) establishing and implementing performance management systems;
(l) promoting a safe and healthy environment;
(m) passing by-laws and taking decisions on any of the above-mentioned matters; and
(n) doing anything else within its legislative and Executive competence.

2.5 A municipality must within its administrative and financial capacity, establish and organise its administration in a manner that would enable the municipality to:

(a) be responsive to the needs of the local community;
(b) facilitate a culture of public service and accountability amongst its staff;
(c) be performance orientated and focused on the objects of local government set out in section 152 of the Constitution and its developmental duties as required by section 153 of the Constitution;
(d) ensure that its political structures, political office bearers and managers and other staff members align their roles and responsibilities with the priorities and objectives set out in the municipality's integrated development plan;
(e) establish clear relationships, and facilitate co-operation, co-ordination and communication, between-

    (i) its political structures and political office bearers and its administration;
    (ii) its political structures, political office bearers and administration and the local community;

(f) organise its political structures, political office bearers and administration in a flexible way in order to respond to changing priorities and

circumstances;

(g) perform its functions:

(i) through operationally effective and appropriate administrative units and mechanisms, including departments and other functional or business units; and
(ii) when necessary, on a decentralised basis;

(h) assign clear responsibilities for the management and co-ordination of these administrative units and mechanisms;
(i) hold the Accounting Officer accountable for the overall performance of the administration;
(j) maximise efficiency of communication and decision-making within the administration;
(k) delegate responsibility to the most effective level within the administration;
(l) involve staff in management decisions as far as is practicable; and
(m) provide an equitable, fair, open and non-discriminatory working environment.

2.6 A decision taken by the Council or any other political structure of the municipality must be recorded in writing.

2.7 All the powers of the municipality that have not been reserved for the Council, or that have not been delegated or assigned to a political structure, political office bearer or employee of the Council, are delegated to the Executive Mayor of the Council.

2. **Supply Chain Management System**

The procurement of goods and services, either by way of quotation or through a competitive bidding process, will be within the following threshold values (all amounts include VAT):

(a) For amounts below R 500	: Petty Cash
(b) For amounts above R 500 to a maximum of R 30 000	: 3 x Verbal Quotations (order placed against written confirmation from supplier)
(c) For amounts above R 30 000 to a maximum of R 200 000	: Advertise for 7 days on municipal notice boards or municipal website
(d) For amounts above R 200 000	: Competitive bidding (including multi year contracts)

3.1 The following approval limits apply in respect of quotations for the procurement of goods and services, obtained in accordance with the prescribed process (all amounts include VAT):

(a) For amounts up to R10 000	: Managers
(b) For amounts between R 10 000 and R 60 000	: Head of Departments (Strategic Executive, CFO and COO)

(c) For amounts above R 60 000 onwards : Head of Departments (Strategic Executive, COO) co-signed by CFO and the Accounting Officer

3.2 The following approval limit apply in respect of tenders for the procurement of goods and services, obtained in accordance with the prescribed process (all amounts include VAT):

(a) For all tenders (amounts above R 200 000) : Accounting Officer after receiving report from Bid Adjudication Committee

3.3 The following approval limits apply in respect the appointment of professional service providers in accordance with the prescribed process (all amounts include VAT):

(a) For amounts below R 30 000 : Chief Operating Officer & Strategic Executives
(b) For amounts between R 30 001 and R60 000 : Strategic Executives and COO
(c) For amounts above R 60 000 onwards : COO and Strategic Executive, CFO & the Accounting Officer

3.4 Subject to the provisions of sections 14 and 90 of the MFMA, the Accounting Officer will ensure that:

(a) immovable property is sold at market related prices, unless provincial treasury determines otherwise;
(b) movable assets are sold either by way of price quotation, an advertised competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality;
(c) immovable property is let at market related rates, unless provincial treasury determines otherwise or approves the letting of property free of charge;
(d) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of property are reviewed annually.

3.5 The following approval limits apply in respect of request for payments for the payment of goods and services (excluding contractual and statutory payments), obtained in accordance with the prescribed process (all amounts include VAT):

(a) For amounts below R 30 000 : Chief Operating Officer & Strategic Executives
(b) For amounts between R 30 001 and R60 000 : Strategic Executives and COO
(c) For amounts above R 60 000 onwards : COO and Strategic Executive, CFO & the Accounting Officer

3.6 The following approval limits apply in respect of request for payments for the payment of contractual (through tender process) goods and services, obtained in accordance with the prescribed process (all amounts include VAT):

(a)	For amounts below R 30 000	: Chief Operating Officer & Strategic Executives
(b)	For amounts between R 30 001 and R60 000	: Strategic Executives and COO
(c)	For amounts above R 60 000 onwards	: COO and Strategic Executive, CFO & the Accounting Officer

3.7 The following approval limits apply in respect of request for payments for the payment of statutory goods and services and bulk services, obtained in accordance with the prescribed process (all amounts include VAT):

(a)	For any amounts	: Head of Departments (Strategic Executive, COO) co-signed by CFO

4. Objectives of delegation

4.1 The objectives of this system of delegation of powers of the Council are :

(a) to ensure maximum administrative and operational efficiency;
(b) to provide for adequate checks and balances;
(c) to delegate decision-making to the most effective level within the administration;
(d) to involve employees in management decisions as far as practicable;
(e) to promote a sense of collective responsibility for performance;
(f) to assign clear duties for the management and co-ordination of administrative units, systems and mechanisms;
(g) to define in precise terms the duties of each political structure and political office bearer;
(h) to determine the relationships amongst the political structures, political office bearers and the administration, and the appropriate lines of accountability and reporting for each of them.

5. Roles and responsibilities

5.1 It is important to define the specific roles and areas of responsibility of each political office bearer, political structure and the Accounting Officer of the Council to ensure :

(a) good relationships and interaction between these bodies and persons;
(b) appropriate lines of accountability and reporting for these bodies and persons;

(c) that unnecessary overlapping of responsibilities between these bodies and persons are prevented or kept to the minimum;
(d) that disputes that may arise between these bodies and persons, are resolved amicable and timely;
(e) good interaction between these bodies and persons, and other Councillors and employees of the Council;

5.2 **Political office bearers**

(a) The Executive Mayor -

(i) is responsible, in consultation with the Accounting Officer, for the formulation of policies, plans, strategies and programmes necessary to perform and exercise the municipality's constitutional functions and responsibilities;
(ii) must in consultation with the Accounting Officer, identify those areas of the municipality's activities and responsibilities that need the assistance of a specific committee of Councillors to investigate, discuss, evaluate and report on to the Executive Mayor;
(iii) must appoint a member of the Executive Mayoral committee as chairperson for each section 80 committee appointed by the Council;
(iv) may delegate to such committees any of his powers, but is not divested of the responsibility concerning the exercising of the powers;
(v) must ensure, in consultation with the Accounting Officer, that a proper committee service responsible for the agenda and minutes is in place for each of the committees, that the committees meet on a regular basis and submit reports to him timely;
(vi) receives reports with recommendations from the Strategic Executives through the office of the Accounting Officer, on all matters that must be handled by either the Executive Mayor himself or the Council in terms of the delegation of powers of the Council;
(vii) must consider the matters raised in these reports, and must either dispose of them in terms of his delegated powers, or must forward them with his recommendation to the Council for consideration;
(viii) receives reports with recommendations from the committees established for specific matters, considers the matters raised in these reports, and must either dispose of them in terms of his delegated powers, or must forward them with his recommendation to the Council for consideration;
(ix) is responsible for the quality and speed of decision-making;
(x) should ensure that integration between the various committees take place;
(xi) plays a prominent role, in consultation with the Accounting Officer, in building, maintaining and enhancing a good relationship between the Council, Councillors and the administration;
(xii) is responsible for political supervision of, and in consultation with the Accounting Officer, for the accountability of the administration;
(xiii) is responsible for liaison with the community, ward committees, other committees and Councillors, and political office bearers in the different spheres of government;
(xiv) should be available on a regular basis to interview the public and visitors to the municipal offices, and to interact with prominent business people as well as developers;

(b) The Speaker -

(i) must ensure that the Council meetings as well as committee meeting are conducted in an orderly manner, and in this regard he must strictly apply Council's rules and orders and the code of conduct for Councillors;
(ii) must liaise closely with the committee service responsible for the agenda and minutes of each meeting, in consultation with the Executive Mayor and Accounting Officer as and when necessary;
(iii) must co-ordinate the arrangements inter alia regarding venues, dates and the circulation of agendas and minutes of all the meetings of the Council and Council committees;
(iv) must liaise with Councillors, as well as members of the public and media who attend Council meetings, regarding proper conduct during such meetings to ensure compliance with Council's rules and orders;

5.3 **Political structures**

(a) The Executive Mayoral committee -

(i) is not a committee of the Council, consist of Councillors appointed by the Executive Mayor and is established for the sole purpose to assist the Executive Mayor;
(ii) may receive specific responsibilities and delegated powers from the Executive Mayor, which must be exercised strictly in accordance with the conditions and limitations of delegation, if any;
(iii) is the responsibility of the Executive Mayor and as such each member of the committee report directly to the Executive Mayor on the exercise of his powers;
(iv) considers only those issues submitted to it by the Executive Mayor or delegated by the Executive Mayor, and submit reports thereon to the Executive Mayor;

(b) The committees of Council -

(i) consist of Councillors appointed by the Council;
(ii) the chairperson of each section 80 committee is appointed by the Executive Mayor from the Executive Mayoral committee;
(iii) may receive specific responsibilities and delegated powers from the Executive Mayor, which must be exercised strictly in accordance with the conditions and limitations of delegation, if any;
(iv) each committee reports to the Executive Mayor in accordance with the directions of the Executive Mayor;

5.4 **Accounting Officer**

(a) The Accounting Officer -

(i) as head of the administration, is responsible for the effective day to day running of the administration of the municipality;
(ii) is responsible for the execution of Council resolutions;
(iii) plays a prominent role, together with the Executive Mayor, in building, maintaining and enhancing a good relationship between the Council, Councillors and the administration;
(iv) must ensure, after consultation with the Executive Mayor and Speaker, that a proper and effective committee service responsible for the agenda and minutes is in place for each of the committees, and that the committees meet on a regular basis;
(v) receives reports with recommendations from the Strategic Executives on all matters that must be handled by either the Accounting Officer, the Executive Mayor or the Council in terms of the delegation of powers of the Council;

6. Principles, conditions and limitations

6.1 A delegation and sub-delegation of a power to a delegated body –

(a) must not conflict with the Constitution, the Structure Act, the Systems Act or any other applicable legislation;
(b) must be in writing under signature of the delegating authority;
(c) may at any time be withdrawn by the delegating authority in writing;
(d) includes the authority to sub-delegate a delegated power;
(e) does not divest the delegating authority of the responsibility concerning the exercising of the power;
(f) must be reviewed when a new Council is elected;
(g) is subject to the limitations, conditions and directives imposed by the delegating authority, if any;

6.2 When a power has been duly delegated or assigned by a delegating authority to an employee, the employee may act thereon through any employee under his control.

6.3 The following conditions and limitations apply to any power that has been delegated by a delegating authority -

(a) the delegated body must give effect to the policies of the municipality as approved from time to time by the Council;
(b) the delegated body may at any time decide not to exercise the delegated power, but to submit it to the delegating authority for decision. In such event the delegated body must submit its report and recommendations on the matter to the delegating authority for consideration;
(c) the delegating authority may at any time instruct the delegated body not to act on a delegation, but to submit the matter to it for decision

and execution as provided for in section 61 of the Systems Act. In such an event the delegated body must submit its report and recommendations on the matter to the delegating authority;

(d) a delegated body may not incur expenditure in the exercising of the delegated powers that has not been provided for in the budget.

6.4 A person whose rights are affected by a decision taken by a delegated body may appeal against that decision by giving written notice and reasons for the appeal to the Accounting Officer within 21 days of the date of the notification of the decision. The Accounting Officer must promptly submit the appeal to the appropriate appeal authority who must decide on the appeal in the manner and within the time set out in the Systems Act. The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision. When the appeal is against a decision taken by-

(a) a staff member other than the Accounting Officer, the Accounting Officer is the appeal authority;
(b) the Accounting Officer, the Executive Mayor is the appeal authority, except in the case of procurement decisions where the Council is the appeal authority;
(c) a political structure, a political office bearer or a councilor, the Council is the appeal authority;

An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

6.5 A councillor or a staff member to whom a power had been delegated, must report to the delegating authority in writing on all decisions taken in terms of that delegated power; A report in this regard must be submitted as follows:

(a) by the Executive Mayor for information to the Council, together with his report on his decisions and recommendations on the matters considered by him at every Council meeting;
(b) by the Accounting Officer to the Executive Mayor within 14 days of the end of each month. This report must be incorporated into the report of the Executive Mayor to the Council as mentioned in (a);
(c) by a **Strategic Executive** to the Accounting Officer within 12 days of the end of each month. This report must be incorporated into the report of the Accounting Officer to the Executive Mayor as mentioned in (b);
(d) by a Strategic Executive to the Strategic Executive concerned within 10 days of the end of each month. This report must be incorporated into the report of the Strategic Executive to the Accounting Officer as mentioned in (c);
(e) by a Strategic Executive to the Strategic Executive concerned within 8 days of the end of each month. This report must be incorporated into the report of the Strategic Executive to the Strategic Executive as mentioned in (d);
(f) by other delegated bodies of lower designations to the Strategic Executive concerned within 6 days of the end of each month. This report must be incorporated into the report of the Strategic Executive to the Strategic Executive as mentioned in (e);

6.6 The withdrawal, amendment or lapse of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation before such withdrawal, amendment or lapse.

6.7 Whenever it becomes necessary to review the municipality's delegations of powers, the Accounting Officer must submit a report on the existing delegations with recommendations on any changes thereto which the Accounting Officer may consider necessary, to the Council through the Executive Mayor.

6.8 A decision taken by a delegated body in the exercise of the municipality's authority must be in writing.

CHAPTER 2: POWERS OF THE COUNCIL

2.1. Council reserved powers

The powers set out hereunder are reserved for the Council either by means of legislation or by Council resolution, and may not be delegated to any of the municipality's other political structures, political office bearers or employees. The Council may however take no decision in respect of these matters, unless it has received and considered the report and recommendations of the Executive Mayor in this regard

SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
160(2) CON	The passing of by-laws	Council	None	A decision in this regard must be taken by the Council with a supporting vote of a majority of its members
160(2) CON 16(1) MFMA	The approval of budgets	Council	None	A decision in this regard must be by the Council with a supporting vote of a majority of its members taken before the start of the financial year. Section 25 MFMA applies in event that the budget is not approved
160(2) CON 75A(2) MSA 14(1) MPRA	The imposition of rates and other taxes, levies and duties	Council	None	A decision in this regard must be taken by the Council with a supporting vote of a majority of its members
160(2) CON	The raising of loans	Council	None	A decision in this regard must be taken by the Council with a supporting vote of a majority of its members
59(1)(a) MSA 75A(2) MSA	The setting of tariffs	Council	None	A decision in this regard must be taken by the Council with a supporting vote of a majority of its members
14(2) MFMA	The transfer of ownership or otherwise disposal of a capital asset that is not needed to provide the minimum level of basic municipal services	Council	In terms of S 14 (4) Accounting Officer	A public process must be embarked upon to dispose of the asset.
Item 8 Code of Conduct for	Considering any application of a full-time Councillor so designated to perform other work for remuneration	Council	Executive Mayor	

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SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
Councillors				
60(3) MSTA	Designating the powers of the Executive Mayor that must be exercised by the Executive Mayor together with the other members of the Executive Mayoral committee	Council	None	
Item 7(4) Code of Conduct for Councillors	Determining the financial interests of Councillors that must be made public	Council	Speaker	
14(2)(a)	Deciding, at a meeting open to the public and on reasonable grounds, that an asset of the Municipality is not needed to provide the minimum level of basic municipal services.	Council	None	Only in respect of movable capital assets below a value determined by the Council
14(2)(b)	Considering the fair market value of an asset to be disposed of and the economic and community value to be received in exchange for an asset to be disposed of	Council	None	Only in respect of movable capital assets below a value determined by the Council
16(3) MFMA	Deciding whether money for capital expenditure for a period not exceeding three financial years may be appropriated in an annual budget	Council	None	A separate appropriation must be made for each of financial year
19(1)(b) MFMA	Approving a capital project, including its total cost	Council	None	
19(1)(d) MFMA	Considering the sources of funding of a capital project	Council	None	
19(2) MFMA	Considering, in respect of a capital project, the projected cost covering all financial years until the project is operational and the future operational costs and revenue on the project, including municipal tax and tariff implications.	Council	None	
19(3) MFMA	Deciding to approve capital projects below the prescribed value individually or as part of a consolidated capital programme	Council	None	
23(1) MFMA	Receiving and considering the views of the communities and organs of state received in connection with the budget	Council	None	
23(2) MFMA	Deciding to give the Executive Mayor an opportunity to respond to any submissions received in connection with the budget from communities and organs of state	Council	None	
28(1) MFMA	Deciding to revise an approved budget by way of an adjustments budget	Council	None	
32(2) MFMA	Appointing a committee to investigate any suspected or reported unauthorised, irregular or fruitless and wasteful expenditure	Council	Political = Speaker Admin = MM	**NOTE:** In terms of the judgements of the Courts in the cases of The Democratic Alliance and another v

SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
				Amos Masondo and another (WLD) (Case No 01/9260) (2001) and Democratic Alliance and Another v Amos Masondo N O and the Minister of Provincial and Local Government (CC) (Case No CCT 29/02) a Executive Mayoral committee was found not to be a committee of a municipal council. The Council may therefore not appoint the Executive Mayoral Committee to perform such an investigation
32(7) MFMA	Determining whether an alleged irregular expenditure incurred by the Accounting Officer constitutes a criminal offence	Council	None	
32(7) MFMA	Determining whether the Accounting Officer allegedly committed an act of theft and fraud	Council	None	
33(1) MFMA	Deciding to enter into a contract which will impose financial obligations on the municipality beyond a financial year	Council	None	
38(2) MFMA	Considering a notice received from the National Treasury of its intention to stop the transfer of funds to the Municipality	Council	EM	
45(2)(a) MFMA	Approving any short term debt agreement	Council	None	
46(1)	Deciding whether to incur long term debt	Council	None	1. In terms of section 160(2) of the Constitution the Council may not delegate the raising of loans 2. A decision to raise a loan must be taken by the Council with a supporting vote of a majority of its members in terms of section 160(3)(b) of the Constitution 3. In terms of section 30(5) of the Local Government: Municipal Structures Act 1998 (Act No 117 of 1998) the Council may only after it received and considered the report

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SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
				and recommendations of the Executive Mayor regarding a loan, approve the raising of a loan
46(2)(a) MFMA	Approving any long term debt agreement	Council	None	
48(1) MFMA	Deciding whether to provide security for any of the Municipality's debt obligations, debt obligations of a municipal entity under its sole control and contractual obligations of the Municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the Municipality or such other person	Council	None	
48(2) MFMA	Deciding the form/nature of security to be provided for any of the Municipality's debt obligations, debt obligations of a municipal entity under its sole control and contractual obligations of the Municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the Municipality or such other person	Council	None	
48(3)(a) MFMA	Deciding whether an asset or right that has been hypothecated in any manner as security is necessary for providing the minimum level of basic municipal services	Council	None	
48(3)(b) MFMA	Deciding, if an asset or right that has been hypothecated in any manner as security is necessary for providing the minimum level of basic municipal services, the manner in which the availability of the asset or right will be protected	Council	None	
50 MFMA	Deciding to issue a guarantee for any commitment or debt of any organ of state, person or municipal entity under the sole or shared control of the Municipality	Council	None	
84(2)(b)(ii) MFMA	Considering the comments or representations received from the local community, organised labour and other interested persons in respect of the Municipality's intention to establish and/or participate in a municipal entity	Council	None	
87(1) MFMA	Receiving a proposed budget for a municipal entity of which the Municipality is the parent municipality for each financial year	Council	None	
89(a) MFMA	Determining the upper limits of the salary, allowances and other benefits of the Chief Executive Officer and senior managers of a municipal entity of which the Municipality is the parent municipality	Council	None	
90(2) MFMA	Considering an application from a municipal entity of which the Municipality is the parent municipality, to transfer ownership or otherwise dispose of a capital	Council	None	Council must in a meeting open to the public, decide whether an asset

SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
	asset other than an asset needed to provide the minimum level of basic municipal services			is not needed to provide the minimum level of basic municipal services, and consider the fair market value of the asset and the economic and community value to be received for the asset
90(4) MFMA	The transfer of ownership or otherwise disposal of a movable capital asset, of a municipal entity of which the Municipality is the parent municipality, below the value of R 1 000 000.00 that is not needed to provide the minimum level of basic municipal services	Council	None	Must determine whether an asset is not needed to provide the minimum level of basic municipal services, and consider the fair market value of the asset and the economic and community value to be received for the asset
97(3) MFMA	Receiving a report of the accounting officer of a municipal entity of which the Municipality is the parent municipality regarding any payments due by an organ of state to the entity in respect of service charges, if such payments are regularly in arrears for periods of more than 30 days	Council	None	
109 MFMA	Deciding, when a municipal entity of which the Municipality is the parent municipality, experiences serious or persistent financial problems and the board of Directors of the entity fails to act effectively – (a) the appropriate steps to be taken in terms of the Municipality's rights and powers over the entity concerned, including its rights and powers in terms of any relevant service delivery or other agreement; (b) impose a financial recovery plan, which meets the criteria set out in section 142 of the MFMA; or (c) liquidate and disestablish the entity.	Council	None	
116(3) MFMA	Considering the reasons for the proposed amendment of a contract or agreement and any representation that may have been received regarding the proposed amendment of a contract or an agreement procured through the supply chain management policy of the Municipality and deciding whether to consent to the amendment of the contract or agreement	Council	None	
120(1) MFMA	Deciding to enter into a public-private partnership agreement	Council	None	
120(1)(a) MFMA	Determining whether a proposed public-private partnership agreement will provide value for money to the municipality	Council	None	
120(1)(b) MFMA	Determining whether a proposed public-private partnership agreement will be affordable for the Municipality	Council	None	

SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
120(5) MFMA	Determining whether to apply for the national government's assistance in carrying out and assessing a feasibility study regarding a proposed public-private partnership	Council	None	
126(4) MFMA	Receiving a report outlining the reasons for the delay from the Auditor-General if she/he is unable to complete an audit within three months after submission of the Municipality's annual financial statements and any consolidated annual financial statements of the Municipality and of a municipal entity over which the Municipality has sole control or effective control (if it is a private company)	Council	None	
129(1) MFMA	Considering the annual report of the Municipality and of any municipal entity under the Municipality's sole or shared control	Council	None	
129(1) MFMA	Adopting an oversight report containing the Council's comments on the annual report(s)	Council	None	
129(5) MFMA	Deciding whether to adopt guidelines issued by the National Treasury on the manner in which councils should consider annual reports and conduct public hearings and the functioning and composition of any public accounts or oversight committees established by a council to assist it to consider an annual report	Council	None	
133(c)(i)	Deciding whether to request the Speaker or another councillor to investigate the reasons for the failure of the Municipal Manager or of the accounting officer of a municipal entity under the Municipality's sole or shared control to submit annual financial statements to the Auditor-General or the Executive Mayor's failure to table the annual report of the Municipality or a municipal entity in the Council Receiving the report of the appointed councillor regarding the failure of the Municipal Manager or of the accounting officer of a municipal entity under the Municipality's sole or shared control to submit annual financial statements to the Auditor-General or the Executive Mayor's failure to table the annual report of the Municipality or a municipal entity in the Council	Council	None	
133(c)(ii)	Determining the appropriate steps to be taken to ensure that the financial statements are submitted to the Auditor-General or that the annual report, including the financial statements and the audit report on those statements, is tabled in the Council, as the case may be.	Council	None	
133(c)(iii)	Deciding whether disciplinary steps should be taken against the Municipal Manager or other persons responsible for the failure of the Municipal Manager	Council	None	

SECTION IN ACT	CHAPTER 2: POWERS OF THE COUNCIL Council reserved powers	DELEGATING AUTHORITY	DELEGATED BODY	CONDITIONS
	or of the accounting officer of a municipal entity under the Municipality's sole or shared control to submit annual financial statements to the Auditor-General or the Executive Mayor's failure to table the annual report of the Municipality or a municipal entity in the Council			
133(1)(c)(i) MFMA	Admin: and Political: Deciding whether to request the Speaker or another councillor to investigate the reasons for the failure of the Accounting Officer or of the accounting officer of a municipal entity under the Municipality's sole or shared control to submit annual financial statements to the Auditor-General or the Executive Mayor's failure to table the annual report of the Municipality or a municipal entity in the Council	Council	Executive Mayor for Accounting Officer Speaker for Executive Mayor	
133(1)(c)(i) MFMA	Receiving the report of the appointed councillor regarding the failure of the Accounting Officer or of the accounting officer of a municipal entity under the Municipality's sole or shared control to submit annual financial statements to the Auditor-General or the Executive Mayor's failure to table the annual report of the Municipality or a municipal entity in the Council	Council		
133(1)(c)(iii) MFMA	Deciding whether disciplinary steps should be taken against the Accounting Officer or other persons responsible for the failure of the Accounting Officer or of the accounting officer of a municipal entity under the Municipality's sole or shared control to submit annual financial statements to the Auditor-General or the Executive Mayor's failure to table the annual report of the Municipality or a municipal entity in the Council	Council	EM	
148(1)(b)(i) MFMA	Declaring the Municipality's willingness to fulfill the Executive obligation in terms of legislation or the Constitution that gave rise to any discretionary intervention in the Municipality	Council	None	
166(2)(d) MFMA	Requesting the audit committee to investigate the financial affairs of the Municipality or a municipal entity of which the Municipality is a parent authority.	Council	None	
166(2) MFMA	Receiving reports of the audit committee	Council	None	
166(4) MFMA	Determining the number of members of the audit committee	Council	None	
166(4) MFMA	Determining the nature of the appropriate experience that persons should possess to be considered for appointment as a member of the audit committee	Council	None	In consultation with the Accounting Officer
166(5) MFMA	Appointing the members of the audit committee of the Municipality and of a municipal entity of which the Municipality is a parent municipality	Council	None	
166(5) MFMA	Appointing from amongst the members of an audit committee who is not in the employ of the Municipality or municipal entity a chairperson	Council	None	

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